



BEFORE THE ARIZONA CORPORATION

IN THE MATTER OF THE APPLICATION OF)
SOLARCITY CORPORATION FOR A)
DETERMINATION THAT WHEN IT PROVIDES)
SOLAR SERVICE TO ARIZONA SCHOOLS,)
GOVERNMENTS, AND NON-PROFIT ENTITIES)
IT IS NOT ACTING AS A PUBLIC SERVICE)
CORPORATION PURSUANT TO ART. 15,)
SECTION 2 OF THE ARIZONA)
CONSTITUTION.)

DOCKET NO.
E-20690A-09-0346PREHEARING
CONFERENCE

At: Phoenix, Arizona

Date: October 7, 2009

Filed: OCT 22 2009

RECEIVED
2009 OCT 22 P 2:08
ARIZONA CORPORATION
DOCKET CONTROLREPORTER'S TRANSCRIPT OF PROCEEDINGS

Arizona Corporation Commission

DOCKETED

OCT 22 2009

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ORIGINAL

ARIZONA REPORTING SERVICE, INC.

Court Reporting

Suite 502

2200 North Central Avenue

Phoenix, Arizona 85004-1481

Prepared for:

By: COLETTE E. ROSS
Certified Reporter
Certificate No. 50658

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1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard before the
3 Arizona Corporation Commission, 1200 West Washington
4 Street, Phoenix, Arizona, commencing at 1:33 p.m., on
5 the 7th of October, 2009.

6
7 BEFORE: JANE RODDA, Administrative Law Judge

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1 ALJ RODDA: This is the time for the prehearing
2 conference in Docket No. E-20690A-09-346, which is the
3 application of SolarCity Corporation for a determination
4 not a public service corporation.

5 Good afternoon and welcome to the Arizona
6 Corporation Commission. My name is Jane Rodda and I am
7 the administrative law judge who has been reassigned to
8 this matter.

9 First I would like to say I appreciate
10 everyone's flexibility in showing up today instead of on
11 Friday. I really appreciate that. And I know it is
12 earlier, so it is more of a hardship.

13 So first thing I am going to do, I am going to
14 start taking appearances of the parties. And I will
15 start with SolarCity.

16 MR. RICH: Your Honor, my name is Court Rich
17 from the Rose Law Group, with me today is Ryan Hurley,
18 on behalf of the applicant SolarCity Corporation.

19 ALJ RODDA: Okay. Great. And on behalf of UNS
20 and TEP.

21 MR. PATTEN: Michael Patten, Roshka DeWulf &
22 Patten, on behalf of UNS Electric and Tucson Electric
23 Power.

24 ALJ RODDA: Okay. And on behalf of APS.

25 MS. SCOTT: Good afternoon. Deborah Scott and

1 Linda Benally representing APS.

2 ALJ RODDA: Okay. On behalf of Mohave Electric
3 Cooperative and Navapache.

4 MR. CURTIS: Michael Curtis of Curtis Goodwin
5 Sullivan Udall & Schwab for Mohave Electric and
6 Navapache Electric.

7 ALJ RODDA: Okay. Do you want to make your
8 request?

9 MR. CURTIS: If it please Madam Examiner, we
10 would like to make a motion, on the grounds that Mohave
11 Electric and Navapache Electric are monitoring this
12 process and have not filed any documents and do not have
13 a witness and do not intend to cross-examine any
14 witnesses but only intend to remain a party for possible
15 comment or pleadings on the summarization of the issues,
16 we would like to be excused from further participation
17 under the rules in the hearings that take place.

18 ALJ RODDA: Okay.

19 MR. CURTIS: It is for economic and other
20 reasons. We do, however, intend to reply to the data
21 requests.

22 ALJ RODDA: Okay. And does any party have an
23 objection to that request?

24 (No response.)

25 ALJ RODDA: All right. Then, Mr. Curtis --

1 MR. CURTIS: I didn't realize I had so many
2 friends. Thank you.

3 ALJ RODDA: Okay. Copper & Gold, Incorporated,
4 and AECC.

5 MR. CROCKETT: Good afternoon, Your Honor. Webb
6 Crockett with Fennemore Craig on behalf of
7 Freeport-McMoRan Gold & Copper, Inc., and Arizonans for
8 Electric Choice & Competition.

9 ALJ RODDA: Okay. And SunPower Corporation.

10 MR. ROBERTSON: Thank you, Your Honor. Lawrence
11 V. Robertson, Jr. appearing on behalf of SunPower
12 Corporation. And in that regard, Judge Rodda, I would
13 like to extend our appreciation for you allowing me to
14 participate today telephonically.

15 ALJ RODDA: It is my pleasure.

16 Western Resource Advocates.

17 MR. HOGAN: Tim Hogan with Arizona Center For
18 Law in the Public Interest representing Western Resource
19 Advocates.

20 ALJ RODDA: Okay. Is SRP here today?

21 MR. TAYLOR: Yes, Your Honor. It is Robert
22 Taylor representing Salt River Project.

23 ALJ RODDA: Great. And is there anyone here for
24 SSVEC?

25 MR. KIEFER: Good afternoon, Your Honor.

1 Kris --

2 ALJ RODDA: Is that button pushed?

3 MR. KIEFER: I don't think so. Kris Kiefer from
4 Snell & Wilmer on behalf of Sulphur Springs Valley
5 Electric Cooperative.

6 ALJ RODDA: And is there -- the school districts
7 filed a notice of limited appearances. Is there anyone
8 here today on behalf of the various school districts?

9 MR. HOGAN: Your Honor, it is Tim Hogan. I
10 filed -- well, you are referring to a different group of
11 school districts I believe.

12 ALJ RODDA: Oh.

13 MR. HOGAN: We filed a letter that probably got
14 cross filed in this docket as well as the production
15 based incentives docket pursuant to APS' request. If
16 you are referring to the 18 school districts that are
17 making a limited appearance, no.

18 ALJ RODDA: Okay. Thank you, Mr. Hogan.

19 And RUCO, there he is.

20 MR. POZEFSKY: Hello, Your Honor. Daniel
21 Pozefsky on behalf of RUCO.

22 ALJ RODDA: Okay. And on behalf of Commission
23 Staff.

24 MR. HAINS: I believe there is one more party
25 before us.

1 MR. WENE: Your Honor, Steve Wene with the law
2 firm of Moyes Sellers & Sims, representing SunRun.

3 ALJ RODDA: Representing who?

4 MR. WENE: SunRun.

5 ALJ RODDA: SunRun. Sorry, Mr. Wene.

6 MR. WENE: No problem, Your Honor.

7 ALJ RODDA: Now Commission Staff. Thank you.

8 MR. HAINS: Thank you, Your Honor. Charles
9 Hains on behalf of Staff of the Commission.

10 ALJ RODDA: Great. All right. Is there anyone
11 else who wishes to make an appearance this afternoon?

12 (No response.)

13 ALJ RODDA: Okay. Ostensibly the purpose of
14 this procedural conference is to address the scheduling
15 of witnesses and any other procedural matters for the
16 hearing next week which starts on Wednesday, if I am not
17 mistaken, at 10:00 a.m.

18 All right. So I have got -- before we get into
19 witnesses, is there anything, any objections to any
20 testimony that has been filed to date?

21 (No response.)

22 ALJ RODDA: Hearing none, all right. Anything
23 else that you want to discuss before we discuss the
24 witness schedule?

25 (No response.)

1 ALJ RODDA: All right.

2 MR. RICH: Your Honor, just briefly, Court Rich
3 on behalf of the applicant. We have the intention to
4 offer, our witnesses have indicated, to offer some
5 additional testimony. Would it be your preference that
6 we prefile that or offer it at the hearing?

7 ALJ RODDA: Do you have it prepared prior to the
8 hearing?

9 MR. RICH: I think we can, yes.

10 ALJ RODDA: Originally I was thinking you would
11 just do it from the stand. I think it is always better
12 if you have it prepared and ready that people can see it
13 in advance. But --

14 MR. RICH: Okay, thank you.

15 ALJ RODDA: -- if you can, that would be great.

16 MR. RICH: Sure.

17 ALJ RODDA: But...

18 MR. ROBERTSON: Your Honor, this is Larry
19 Robertson. I would just like to express a preference
20 for the approach you suggested, which would be that
21 SolarCity prefiles any additional testimony so we have a
22 chance to review it before the hearing begins.

23 ALJ RODDA: Do you think you can do that by
24 Friday at 4:00?

25 Are you all exchanging documents electronically?

1 Everyone is nodding yes. Or Monday is probably not a
2 holiday for you all, just for me, huh?

3 MR. RICH: Not a holiday for us, Your Honor.

4 ALJ RODDA: Okay.

5 MR. RICH: Monday at 4:00 would be preferable.
6 But if we can get it done before, we will file
7 immediately upon completion.

8 ALJ RODDA: You couldn't file with the
9 Commission until Tuesday, but if you could get it to the
10 parties on Monday, I think that would be helpful.

11 MR. RICH: Okay, thank you.

12 ALJ RODDA: All right. Are there any witnesses
13 that have any special needs in terms of availability?

14 MR. ROBERTSON: Your Honor, this is Larry
15 Robertson again. Both of my witnesses are from out of
16 state, from northern California. And in the case of
17 Kevin Fox, he has advised me that he has an east coast
18 commitment for the 14th. He would be available the 15th
19 or the 16th.

20 And Mr. Irwin, I would like to put him on the
21 same day as Mr. Fox, whichever day between the 15th and
22 the 16th that might prove to be in the event the hearing
23 goes three days.

24 ALJ RODDA: Okay. So the hearing is scheduled
25 to start on -- I have a calendar -- Wednesday the 14th.

1 So let's start with the applicant's witnesses, which I
2 presume would be first.

3 Do you have a preference on order that you are
4 going to put them on the stand?

5 MR. RICH: Your Honor, our intent, I believe, is
6 to have Mr. Rive go first, Mr. Tarbell go second, and
7 then Mr. Peterson go third.

8 ALJ RODDA: Okay. And it is also your intent
9 that you are going to try to file some additional
10 testimony. Do you anticipate that from the stand?

11 MR. RICH: No, Your Honor.

12 ALJ RODDA: Okay. Is it the parties' -- the
13 testimony in this case that I have been able to read so
14 far isn't so extensive that I think that I need
15 summaries from the stand. Sometimes it is helpful if
16 you have Commissioners present. Do the parties have any
17 preference on whether to give summaries from the stand?

18 MR. HAINS: Your Honor, Charles Hains from
19 Staff. Not on the issue of summaries but would you like
20 that being our further opportunity to provide rebuttals
21 to the testimonies provided by others? Would it be
22 acceptable to offer like a further rebuttal at that
23 time?

24 ALJ RODDA: Most definitely. That's what I
25 would expect because there haven't -- yes.

1 MR. HAINS: Okay, okay.

2 ALJ RODDA: Okay?

3 MR. HOGAN: Well, Your Honor --

4 ALJ RODDA: Mr. Hogan.

5 MR. HOGAN: -- I assume we can provide a summary
6 if we think it is appropriate at the time.

7 ALJ RODDA: Yes.

8 MR. HOGAN: Okay.

9 ALJ RODDA: I just wasn't going to require it or
10 I didn't think I needed it. But I am just going to
11 leave it up to your discretion whether you think that it
12 is helpful to the process.

13 All right. So let me ask, Mr. Robertson, I am
14 just going to try and get a feel for how long the
15 hearing is going to be, and so do you have an estimate
16 of how much cross you have for Mr., is it, Rive?

17 MR. ROBERTSON: Your Honor, I can't resist
18 posing the inquiry with tongue in cheek. I wonder what
19 portends with you starting with me on getting an
20 estimate on the hearing. No.

21 I would anticipate at this point, because I have
22 been almost in steady hearings over the last ten days I
23 have not had a chance to read all of the testimony that
24 has been filed, I am going to guess in the case of
25 Mr. Rive, and this is with the understanding that if we

1 get into the hearing the time estimate might extend, but
2 I would say on the order of 15 to 20 minutes.

3 ALJ RODDA: Okay. How about Mr. Tarbell,
4 Mr. Robertson?

5 MR. ROBERTSON: I am sorry, I didn't hear you,
6 Your Honor.

7 ALJ RODDA: I am just starting with you because
8 you are on the phone. That's the only reason.

9 MR. ROBERTSON: Why don't we, for purposes of
10 the SolarCity witnesses, use an estimate of 15 to 20
11 minutes each. And that may very well be on the high
12 side or more than I will need with respect to one or two
13 of them, but just for your planning purposes to give you
14 a starting estimate.

15 ALJ RODDA: Okay. Thank you, Mr. Robertson.

16 How about you, Mr. Pozefsky? Have you had a
17 chance in between writing briefs for APS?

18 MR. POZEFSKY: Well, and Johnson Utilities,
19 which will never go away, I am convinced. But I expect
20 probably about 15 to 20 minutes of cross.

21 ALJ RODDA: For all of the witnesses?

22 MR. POZEFSKY: Pretty much for all of them. I
23 may go a little longer with Staff's witness, Mr. Irvine,
24 but we will see.

25 ALJ RODDA: I was just talking about the

1 SolarCity's.

2 Okay. And, Mr. Hogan, how about you?

3 MR. HOGAN: Well, for Mr. Rive and Tarbell,
4 probably no cross-examination; if I have any, it will
5 just be a few minutes. For Mr. Peterson, upwards of a
6 half hour.

7 ALJ RODDA: Thank you.

8 And, Ms. Scott.

9 MS. SCOTT: Your Honor, for all of the witnesses
10 in total I think you could estimate about 30 minutes.

11 ALJ RODDA: Okay. Mr. Crockett.

12 MR. CROCKETT: Your Honor, for all of the
13 witnesses in total probably 20 to 30 minutes.

14 ALJ RODDA: Okay. And Mr. Patten, how about
15 you?

16 MR. PATTEN: Probably for Mr. Rive it would be
17 30 to 45 minutes and minimal cross for the other two
18 witnesses.

19 ALJ RODDA: Okay. And, Mr. Wene, how about you?

20 MR. WENE: Your Honor, very limited, if any.

21 ALJ RODDA: Okay. Mr. Kiefer, Mr. Carroll had
22 earlier indicated that he had little to no cross. Do
23 you have any updated information?

24 MR. KIEFER: Your Honor, I would have to defer
25 to Mr. Carroll on that. He is out of the office today

1 and I am covering for him. I would presume that's
2 acceptable.

3 ALJ RODDA: Okay. Mr. Hains.

4 MR. HAINS: Your Honor, right now it looks like
5 about 30 to 45 minutes each. That's an average. And
6 that's also for all the parties. Staff hasn't really
7 broken down necessarily -- some witnesses would be much
8 shorter than that, but as an average for all the
9 witnesses of all the parties Staff is looking around 30
10 to 45 minutes.

11 ALJ RODDA: Average for each, does that mean 30
12 for each witness?

13 MR. HAINS: Possibly yes, like some could go
14 higher, some could go much lower.

15 ALJ RODDA: Okay. I understand. I never hold
16 you all. I am just trying to figure out which witnesses
17 on which days. And I understand there are individuals
18 not present here today that could have an impact on
19 length of time on the stand.

20 Mr. Taylor.

21 MR. TAYLOR: Probably about 15 to 20 minutes per
22 witness.

23 ALJ RODDA: Okay. And is there anyone that I
24 have neglected to ask?

25 (No response.)

1 ALJ RODDA: Depending on who covers which
2 ground, it could take most of the first day on the
3 company witnesses.

4 So let's see. If we move to the SunPower
5 witnesses and we scheduled them on the 15th, let's just
6 use that as a working hypothesis, we could maybe, if we
7 finished up early on some of the SolarCity witnesses, we
8 could use some of the local witnesses if they are going
9 to be around on the 14th. But we will see who can fill
10 in slots. So, Mr. Robertson, which witness would be
11 first in your preference?

12 MR. ROBERTSON: Your Honor, the first one for me
13 would be Mr. Irvin, followed by Mr. Fox.

14 ALJ RODDA: Okay. And so I will ask, I will ask
15 you, Mr. Rich, do you have cross for these witnesses?

16 MR. RICH: Probably just minimal, Your Honor.

17 ALJ RODDA: Okay. And, Mr. Pozefsky.

18 MR. POZEFSKY: Same.

19 ALJ RODDA: Okay. And, Mr. Hogan, minimal, if
20 any?

21 MR. HOGAN: Correct.

22 ALJ RODDA: Ms. Scott.

23 MS. SCOTT: Your Honor, at the most we would
24 have a half hour for both of those witnesses together.

25 ALJ RODDA: And then, let's see, who do I have.

1 Mr. Crockett.

2 MR. CROCKETT: Your Honor, minimal, if any.

3 ALJ RODDA: Okay. And, Mr. Patten.

4 MR. PATTEN: No more than ten minutes for each
5 witness.

6 ALJ RODDA: And, Mr. Taylor.

7 MR. TAYLOR: Your Honor, about the same, no more
8 than ten minutes per each witness.

9 ALJ RODDA: Okay. And, Mr. Hains, you already
10 said 30 to 45 minutes each, for each of these.

11 MR. HAINS: Again, yes, Your Honor.

12 ALJ RODDA: Okay. All right. Let's move to
13 RUCO's witness, Ms. Jerich.

14 Mr. Rich.

15 MR. RICH: Your Honor, you know, between ten and
16 15 minutes sounds reasonable.

17 ALJ RODDA: Okay. And, Mr. Robertson, how about
18 Ms. Jerich?

19 MR. ROBERTSON: At this point, Your Honor, I
20 would guesstimate on the order of 20, maybe 25 minutes
21 at most.

22 ALJ RODDA: Okay. And, Mr. Hogan.

23 MR. HOGAN: Ten or 15 minutes, Your Honor.

24 ALJ RODDA: Ms. Scott.

25 MS. SCOTT: Ten or 15 minutes, Your Honor.

1 ALJ RODDA: And, Mr. Crockett.

2 MR. CROCKETT: Five to ten minutes, Your Honor.

3 ALJ RODDA: Mr. Patten.

4 MR. PATTEN: Five to ten minutes, Your Honor.

5 ALJ RODDA: Mr. Taylor.

6 MR. TAYLOR: About 15 to 20 minutes.

7 ALJ RODDA: Okay. And, Mr. Hains, I am going to
8 put you down for 30 to 45 minutes.

9 Again, I haven't been asking you, Mr. Wene. I
10 am sorry. You would speak up if there was a witness you
11 were interested in, right?

12 MR. WENE: Yes, Your Honor. I don't feel
13 neglected at all. I appreciate being able to sit in the
14 back of the room silent for the most part.

15 No, I would expect to have very limited cross
16 for any of the witnesses unless something piques our
17 interest. And, frankly, we have direct testimony, so it
18 would be very limited for all the cross-examination
19 except maybe Staff. Thank you.

20 ALJ RODDA: Okay. So, Dan, do you know
21 Ms. Jerich's availability? Is she available late on the
22 14th or would she prefer to be just scheduled on the
23 15th?

24 MR. POZEFSKY: You know, Your Honor, I don't
25 know specifically what her schedule looks like on the

1 15th, but she is going to be here. I mean she is pretty
2 much in house. She is available. She does have some
3 medical, you know, issues that...

4 ALJ RODDA: Yes. All right. So maybe what we
5 should do, if we assume it is going to take the company
6 all day the first day with the company's witnesses, do
7 you think that's a good assumption? Does anyone
8 disagree with that, like we are going to whiz through
9 this somehow?

10 (No response.)

11 ALJ RODDA: Okay. We could start -- I am trying
12 to think if we can do this in two days. No? Everyone
13 is saying no. So I am not going to worry about that.
14 All right, let's move on.

15 MR. ROBERTSON: Your Honor, I could not see the
16 body language. Were people indicating no?

17 ALJ RODDA: There was a great shaking of heads,
18 yes.

19 MR. ROBERTSON: Thank you.

20 ALJ RODDA: Let's move on to -- is it Dr. Berry?

21 MR. HOGAN: Yes.

22 ALJ RODDA: Does the company have questions for
23 Dr. Berry?

24 MR. RICH: Only minimal, Your Honor.

25 ALJ RODDA: Okay. And, Mr. Robertson, how about

1 you?

2 MR. ROBERTSON: Now, this is which witness, Your
3 Honor?

4 ALJ RODDA: This is Dr. Berry with WRA.

5 MR. ROBERTSON: Again I am being extremely
6 conservative. As I indicated, I have not had a chance
7 to review the testimony. So I would say 15 to 20
8 minutes at most, if any.

9 ALJ RODDA: Okay. And, Mr. Pozefsky.

10 MR. POZEFSKY: Minimal, Your Honor, five to ten
11 minutes.

12 ALJ RODDA: All right. And APS.

13 MS. SCOTT: Minimal, if any, Your Honor.

14 ALJ RODDA: Okay. AECC.

15 MR. CROCKETT: Minimal, if any.

16 ALJ RODDA: And, Mr. Patten.

17 MR. PATTEN: Five to ten minutes, Your Honor.

18 ALJ RODDA: Mr. Taylor.

19 MR. TAYLOR: 15 to 20 minutes, Your Honor.

20 ALJ RODDA: Okay. And, Commission Staff, 30 to
21 45?

22 MR. HAINS: Again, being very cautious, right.

23 ALJ RODDA: All right. Then I have Lockwood for
24 APS. How about the company?

25 MR. RICH: Your Honor, we would anticipate ten

1 to 20 minutes tops.

2 ALJ RODDA: And, Mr. Robertson, APS witness.

3 MR. ROBERTSON: 20 to 25, if that much.

4 ALJ RODDA: Okay. Mr. Pozefsky.

5 MR. POZEFSKY: Five to 15 minutes, Your Honor.

6 ALJ RODDA: Five to 15.

7 Mr. Hogan.

8 MR. HOGAN: Minimal, Your Honor.

9 ALJ RODDA: And, Mr. Crockett.

10 MR. CROCKETT: Five to ten minutes, Your Honor.

11 ALJ RODDA: And, Mr. Patten.

12 MR. PATTEN: Five to ten minutes.

13 ALJ RODDA: Okay. Mr. Taylor.

14 MR. TAYLOR: Minimal, Your Honor.

15 ALJ RODDA: Okay. Staff, 30 to 45?

16 MR. HAINS: Yes.

17 ALJ RODDA: All right. And now the big one is

18 Mr. Irvine for Commission Staff.

19 Mr. Rich.

20 MR. RICH: Your Honor, depending on how it goes,

21 I guess probably less than an hour.

22 ALJ RODDA: Okay. And, Mr. Robertson.

23 MR. ROBERTSON: I am going to follow Mr. Rich's
24 approach, Your Honor, depending on how it goes, anywhere
25 from 45 minutes to an hour, and, again, possibly less.

1 ALJ RODDA: And, Mr. Pozefsky.

2 MR. POZEFSKY: Probably about 20 to 30 minutes,
3 Your Honor.

4 ALJ RODDA: And, Mr. Hogan.

5 MR. HOGAN: Half hour, Your Honor.

6 ALJ RODDA: And, Ms. Scott.

7 MS. SCOTT: A half hour, Your Honor.

8 ALJ RODDA: Okay. And, Mr. Crockett.

9 MR. CROCKETT: 15 to 20 minutes, Your Honor.

10 ALJ RODDA: Mr. Patten.

11 MR. PATTEN: Five to ten minutes.

12 ALJ RODDA: And, Mr. Taylor.

13 MR. TAYLOR: 15 to 20 minutes, Your Honor.

14 ALJ RODDA: And Mr. Wene is up here.

15 MR. WENE: Yes, Your Honor. I would reserve
16 about 15 minutes.

17 ALJ RODDA: Okay.

18 MR. WENE: Thank you.

19 ALJ RODDA: You are all probably more familiar
20 with the testimony than I am. I mean I have started it.
21 Is there any particular, do you have any preferences or
22 requests in terms of order of cross-examination that you
23 think would be more efficient? Does the company, would
24 it be more efficient to start cross with the applicant
25 or to have them at the end or -- you know, sometimes you

1 all might have --

2 MR. RICH: Your Honor, our preference would be
3 to initiate the cross-exam but --

4 ALJ RODDA: I always have Staff go last
5 actually, so I would typically start with the applicant
6 and figuring that you would cover the most ground with
7 other witnesses and that other people could eliminate
8 questions as you cover their points.

9 Perhaps, you know, when we start the hearing if
10 anyone, as you get -- as you prepare your
11 cross-examinations if you have any suggestions, like you
12 prefer to go last because it could eliminate questions,
13 that would be fine. You can tell me then.

14 MR. CROCKETT: Your Honor, by reason of
15 efficiency, it might be well for the people with the
16 most cross-examination to go first because it then might
17 eliminate the need for following lawyers to
18 cross-examine.

19 ALJ RODDA: That's what I -- that's a good
20 point. All right. It doesn't -- oh, well. So we will
21 start with the company's witness, maybe following that
22 probably on the 15th, but it could be late in the day on
23 the 14th, if we start with Ms. Jerich and then follow
24 that with the SunPower witnesses to make sure they could
25 get on in one day. And I might flip those when we get

1 to the hearing, depending on how long it takes to get
2 through the company's witnesses, to make sure --

3 Mr. Robertson, if your witnesses come in on the
4 15th, would they be flying out again? I mean, would
5 they stay for the 16th or do we need to get them done
6 that same day?

7 MR. ROBERTSON: Your Honor, I don't know the
8 answer to that question. I know that Mr. Fox will be
9 flying in the night, or I am going to assume he will be
10 flying in the night of the 14th after he concludes his
11 business on the east coast so he can be sure to be here
12 on the 15th. I don't know whether Mr. Irvin will come
13 down the night of the 14th or fly in the first thing the
14 morning of the 15th.

15 And, quite honestly, I don't know whether either
16 of them has a conflict with regard to the 16th. I know
17 they both had indicated they hoped that they might be
18 able to get on the 15th.

19 ALJ RODDA: Okay. So we will either start with
20 them on the 15th depending on how it goes with the
21 applicant's witnesses again or have them follow
22 Ms. Jerich.

23 I think Mr. --

24 MR. POZEFSKY: Your Honor --

25 ALJ RODDA: Oh.

1 MR. POZEFSKY: That was me. If I may interrupt,
2 if we had our druthers, I know we would prefer to have
3 Ms. Jerich go later on in the procession, if that would
4 be possible.

5 ALJ RODDA: That's fine. She was just the next
6 one on my list. That's the only reason I picked her
7 out.

8 All right. So let's do this. Let's go the
9 applicant's witnesses, SunPower witnesses, just to get
10 them on and off. Mr. Berry, or Dr. Berry, seems to have
11 minimal cross by most parties. We can get him on and
12 off on the 15th, Lockwood following that. And then we
13 will put Jerich on --

14 MR. POZEFSKY: Thank you.

15 ALJ RODDA: -- right before Mr. Irvine.
16 Mr. Irvine will be the final witness unless the
17 applicants have any rebuttal, or whatever it is called
18 at that point.

19 Does anyone have any heartburn with that general
20 schedule?

21 MR. ROBERTSON: Your Honor, this is Larry
22 Robertson. I just wanted to confirm my understanding.
23 The SunPower witnesses would not be called before the
24 15th and we would either begin with them on the 15th or,
25 if we have any carryover from a witness on the 14th,

1 conclude that witness and then begin with the SunPower,
2 is that correct?

3 ALJ RODDA: Exactly.

4 MR. ROBERTSON: Thank you.

5 ALJ RODDA: All right. So anything else for
6 witnesses?

7 (No response.)

8 ALJ RODDA: We will start with public comment,
9 if any, opening statements. Again, if you want to do a
10 little summary from the stand, that's okay, but keep it
11 short. Let's not go into a rehash of -- keep your
12 summaries short.

13 The company is going to try to file some
14 additional testimony by Monday and to distribute that
15 electronically to the witnesses.

16 I usually discuss a briefing schedule following
17 the hearing, but if anyone wants to discuss it now, we
18 can.

19 Mr. Hains.

20 MR. HAINS: Your Honor, again not wanting to
21 actually talk about the closing briefs, but you
22 mentioned opening statements. Did you want opening
23 statements? I wasn't sure if I heard you correctly on
24 that. You did want opening statements in this?

25 ALJ RODDA: I think that would be nice, yes.

1 MR. HAINS: Okay.

2 ALJ RODDA: You don't want to do opening
3 statements?

4 MR. HAINS: It is not that I don't want to or do
5 want to. I thought, we thought from Staff's perspective
6 that, because there had been all this preparatory work
7 done in the track one, that a lot of groundwork has been
8 laid up to this point.

9 ALJ RODDA: You can keep it brief.

10 MR. HAINS: Thank you.

11 ALJ RODDA: You can waive your opening statement
12 if you want, but I am giving you an opportunity to make
13 it. Okay. You know, I know you have been involved in
14 this case a lot longer than I have, so feel free to make
15 your suggestions.

16 All right. Is there anything else that you want
17 to discuss today or we should discuss today?

18 MR. ROBERTSON: Your Honor, this is Larry
19 Robertson again. For purposes of telling my witnesses
20 when we will begin on Tuesday, what time will be -- or
21 when we begin on the 15th, what time will that be?

22 ALJ RODDA: I am thinking 9:30 because I will be
23 coming from Tucson. It just gives me a little bit of
24 extra time to get here.

25 MR. ROBERTSON: Okay. Thank you.

1 MR. RICH: Your Honor, I guess a question, if we
2 are not concluded Tuesday, are we to expect we will
3 continue on Friday or is there a different schedule
4 after that?

5 ALJ RODDA: Same schedule on Friday. I mean we
6 have the three days.

7 MR. RICH: We have it, okay.

8 ALJ RODDA: So, all right. All right?

9 Well, then, I look forward to seeing you all
10 Wednesday at 10:00 a.m. Thank you.

11 MR. RICH: Thank you.

12 (The proceeding concluded at 2:08 p.m.)

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1 STATE OF ARIZONA)
2) ss.
3 COUNTY OF MARICOPA)
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7 I, COLETTE E. ROSS, Certified Reporter No.
8 50658 for the State of Arizona, do hereby certify that
9 the foregoing printed pages constitute a full, true and
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